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Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms

The arms trade treaty

Report of the Secretary-General

Addendum*

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* This information was received after the submission of the main report.

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II. Replies received from Member States

Burkina Faso

[Original: French]
[3 August 2011]

Chapter I, entitled "Purposes and principles", of the Charter of the United Nations, signed on 26 June 1945 in San Francisco, in its Article 1, states that maintaining international peace and security is one of the purposes and principles of the Charter. Article 11, concerning the functions and powers of the General Assembly, provides that the General Assembly "may consider the general principles of cooperation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or to both".

With a view to achieving the purposes and principles of the Charter of the United Nations, and in fulfilling the functions and powers conferred on it by the United Nations, the General Assembly adopted, on 2 December 2009, resolution 64/48, entitled "The arms trade treaty", which contains paragraphs, including the fourth, sixth and seventh preambular paragraphs, that reaffirm a number of rights granted to States.

The fourth preambular paragraph reaffirms "the inherent right of all States to individual or collective self-defence in accordance with Article 51 of the Charter".

The sixth preambular paragraph acknowledges "the right of all States to manufacture, import, export, transfer and retain conventional arms for self-defence and security needs and in order to participate in peace support operations".

The seventh preambular paragraph acknowledges "the right of States to regulate internal transfers of arms and national ownership, including through national constitutional protections on private ownership, exclusively within their territory".

Burkina Faso welcomes the reaffirmation of these rights of States by the General Assembly in its resolution 64/48, because it lays the foundation for the future treaty on the international arms trade and forestalls any reluctance or hesitation on their part.

Arms control, disarmament and non-proliferation are essential for the maintenance of international peace and security. However, to date, there has been no binding international legal text to regulate the international arms trade in order to achieve this ideal of peace and security. Moreover, while each State has adopted its own legal texts to regulate the issue, these texts are limited to the national scene, leaving the international arena to be regulated through regional and international cooperation, with its inherent limitations.

The African continent, which has been the theatre of rebellions, terrorist activities, kidnappings and other forms of piracy, is increasingly becoming a "no man's land", where the authority of the State has difficulty being respected or even restored. The illicit movement of small arms and light weapons increases insecurity in times of both war and peace. Insecurity, which is gradually taking hold in Africa, speeds up regression in development efforts, dampens the commitment of

non-governmental organizations to the populations, and risks compromising poverty reduction initiatives and achievement of the Millennium Development Goals.

The multiplicity of conflicts has allowed all sorts of adventurers and arms traders and traffickers — whatever their status — to inundate the continent with an assortment of armaments and war materiel. The free movement of persons and goods, combined with the continent's porous borders, facilitates the flow of arms through these borders. In this context, weapons used in one conflict cross borders to fuel and maintain other conflicts.

The lack of good political, economic and social governance often causes populations that feel victimized to use arms to claim their rights.

This is the situation in Burkina Faso. Day in, day out, escalating violence is taking hold in our towns and villages, causing disruption in families and services. Bandits are no longer in hiding; they now operate in broad daylight. The scenario is always the same: criminals appear out of nowhere, hijack somebody's property, and after completing their operation, disappear into thin air, leaving families in distress. This is what leads to street justice in our major cities, with its attendant excesses.

The terrorist threat in the subregion is an additional problem. The Al-Qaida in the Islamic Maghreb network is active in the Sahel, which is the theatre of a wide variety of trafficking activities, including human and drug trafficking.

Given this context, and considering that the international news is dominated by extreme radicalization of armed conflicts and perpetual risks of explosion in still-peaceful regions, it is imperative for the international community to take action. Burkina Faso therefore welcomes the adoption by the General Assembly of resolution 64/48, which, it is hoped, would fill the harmful legal vacuum that exists in the field of the international arms trade.

It is an illusion to think that any one State could eliminate this scourge. The entire international community must rally to combat this phenomenon, which is facilitated by the illicit movement and proliferation of small arms and light weapons. In addition to regional conventions, a binding arms trade treaty that addresses twenty-first-century security concerns and engenders a change in the global arms trade should be adopted. For this reason, Burkina Faso aligns itself with the common position adopted by the Economic Community of West African States in Cotonou, Benin, on 13, 14 and 15 December 2010.

Burkina Faso also supports the addition of small arms and light weapons and their ammunitions as an eighth category on the Register of Conventional Arms.

However, the effectiveness of the future treaty on the international arms trade requires the adoption of provisions in which States would not raise the question of its applicability as a difficulty or problem. In resolution 64/48, the General Assembly took the risk, by deciding, in paragraph 5, that "that the United Nations Conference on the Arms Trade Treaty will be undertaken in an open and transparent manner, on the basis of consensus, to achieve a strong and robust treaty". The goal, as stated in paragraph 4, is to elaborate "a legally binding instrument on the highest possible common international standards for the transfer of conventional arms".

To attain such a legal instrument, the General Assembly, in paragraph 7 of resolution 64/48, requests the Preparatory Committee to make recommendations to "the United Nations Conference on the Arms Trade Treaty on the elements that

would be needed to attain an effective and balanced legally binding instrument on the highest possible common international standards for the transfer of conventional arms, bearing in mind the views and recommendations expressed in the replies of Member States ...".

However, the resolution seems to exclude light weapons from the future treaty. If that is the case, the State of Burkina Faso recommends that this category of weapons be taken into account in the future treaty on the international arms trade, because these are generally the weapons used in armed conflicts.

Considering the relevance of resolution 64/48 and the goal of maintaining international peace and security, the State of Burkina Faso, in line with its determination to honour its commitments under the Charter of the United Nations, stands ready to accompany the Secretary-General in the process that should lead to the future treaty on the international arms trade.

Lebanon

[Original: Arabic]
[15 November 2011]

Lebanon, while retaining the right that every State has, within international norms, to manufacture, import, export, transfer and possess conventional weapons for the purpose of self-defence and in order to participate in peacekeeping operations, proposes that the following principles and elements should be incorporated into the treaty:

(a) Arms-producing States should make an absolute commitment to resolutions of international legitimacy and, in particular, those of the United Nations;

(b) The role of the group of experts should be activated on the basis of equitable geographical distribution, and it should be charged with establishing common international standards for the import, export and transfer of arms and with periodically reporting to the Secretariat on the possibility of obtaining such arms, the purpose thereof and the principles governing such matters, including the maintenance of security, the fomenting of conflict and the balance of forces;

(c) The principle of the equality of States in terms of their sovereignty and territorial integrity must be maintained by upholding the principle of military balance between those States;

(d) There should be international monitoring of arms-producing States;

(e) The movement should be tracked and the transfer prohibited of weapons that could be used to violate international and humanitarian law, perpetrate massacres, violate bilateral or multilateral commitments, support and encourage terrorist acts or support organized crime;

(f) The arms trade should be licensed in order to prohibit the modification of arms for other uses, halt illicit trade therein, ensure that they do not fall into the hands of terrorists, and combat associated corruption and bribery;

(g) The transfer of conventional weapons should be prohibited when there is a danger that international law and the regulations governing the transfer of such

weapons will not be observed, and weapons should be tracked in order to ensure that they remain under observation;

(h) States that do not comply with United Nations resolutions should be held accountable.

Saudi Arabia

[Original: Arabic]
[18 October 2011]

With reference to General Assembly resolution 61/89 entitled "Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms", by paragraph 1 of which the Secretary-General is requested to seek the views of Member States, the Government of the Kingdom of Saudi Arabia is pleased to submit its views on the draft treaty, as set forth below:

1. Article 51 of the Charter of the United Nations establishes the legitimate right of States to individual and collective self-defence. All States therefore have the right to manufacture, export, import, transfer and possess conventional arms for the purposes of self-defence and security requirements.

2. However, that right to self-defence is coupled with State responsibility with regard to threats to peace and respect for international law.

3. The successful United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects should be used as a reference and the trade in conventional arms be regulated by means of a politically binding instrument, and not necessarily a legally binding agreement.

4. It is essential that small arms and light weapons are included in the arms trade treaty which it is intended should be concluded, and that separate consideration is given to the issue of ammunition, in accordance with the international precedents in that regard and in the light of the absence of international consensus on that issue.

5. In accordance with General Assembly resolution 61/89, paragraph 2, the existing role and the voluntary nature of the United Nations Register on Conventional Arms must be taken into account when consideration is given to the feasibility of concluding a treaty on conventional arms.

6. The sovereign right of States to manufacture, export and import conventional arms should be emphasized, and no automatic link should be made between that right and any other criteria that could be subject to politicization or differences of interpretation.

7. In view of the fact that the Security Council is the international mechanism with principal responsibility for the maintenance of international peace and security, the central role of United Nations resolutions should be emphasized in cases where, pursuant to Chapter VII of the Charter, sanctions are imposed on a State that include the prohibition of arms trading.

8. It is important that clear international principles and standards should be devised with a view to regulating the transfer of arms, in order to prevent arms being diverted to illicit trade.

9. The remit of any proposed verification mechanism should be restricted to illicit trade in conventional arms.

10. If the treaty is to be effectively implemented at the national level, there must be consensus on its adoption.